

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:19-cv-00728-FtM-60MRM

APPROXIMATELY \$126,880 IN
UNITED STATES CURRENCY,

Defendant.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Mac R. McCoy entered on January 7, 2020. (Doc. 24). By and through the well-reasoned report and recommendation, Judge McCoy recommends that the Court:

- (1) grant the “United States’ Motion for Leave to File Reply” (Doc. 16), *nunc pro tunc*, and construe the motion as a reply;
- (2) grant the “United States’ Motion to Strike Statements of Rights or Interest” (Doc. 18);
- (3) strike the Lorzeno Brown’s and Quenita Mara Harris’s respective “Statement[s] of Right or Interest” (Doc. 17), with leave to file an amended claim;
- (4) grant the “United States’ Motion to Strike Motion to Dismiss” (Doc. 14); and
- (5) strike the “Motion to Dismiss Verified Complaint for Forfeiture *In Rem* for Failure to State a Claim Upon Which Relief Can Be Granted” (Doc. 13) without prejudice to Claimants’ ability to renew their motion thirty days after they file their amended claims.

No party has filed an objection to the report and recommendation, and the time to object has expired.

Under the Federal Magistrates Act, Congress vested Article III judges with the power to “designate a magistrate judge to hear and determine any pretrial matter pending before the court,” subject to various exceptions. 28 U.S.C. § 636(b)(1)(A). The Act further vests magistrate judges with authority to submit proposed findings of fact and recommendations for disposition by an Article III judge. 28 U.S.C. § 636(b)(1)(B). After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982).

In the absence of specific objections, there is no requirement that a district judge review the facts *de novo*. *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). However, the district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff’d*, 28 F.3d 116 (11th Cir. 1994) (table). When no timely and specific objections are filed, case law indicates the district judge should review the magistrate judge’s proposed findings and recommendations using a clearly erroneous standard. *See Gropp v. United Airlines, Inc.*, 817 F. Supp. 1558, 1562 (M.D. Fla. 1993).

After careful consideration of the record, including Judge McCoy’s report and recommendation, the Court adopts the report and recommendation. The Court agrees with Judge McCoy’s detailed and well-reasoned factual findings and legal

conclusions, including that the Claimants lack standing and cannot move to dismiss this action, but that they should be granted leave to file amended claims.

It is therefore

ORDERED, ADJUDGED, and DECREED:

1. “United States’ Motion for Leave to File Reply” (Doc. 16) is **GRANTED**, *nunc pro tunc*, and construed as a reply.
2. “United States’ Motion to Strike Statements of Rights or Interest” (Doc. 18) is **GRANTED**.
3. Lorzeno Brown’s “Statement of Right or Interest” and Quenita Mara Harris’s “Statement of Right or Interest” (Doc. 17) are **STRICKEN**. Brown and Harris may file an amended claim that complies with the directives of this Order on or before April 4, 2020.
4. “United States’ Motion to Strike Motion to Dismiss” (Doc. 14) is **GRANTED**.
5. Claimants’ “Motion to Dismiss Verified Complaint for Forfeiture *In Rem* for Failure to State a Claim Upon Which Relief Can Be Granted” (Doc. 13) is **STRICKEN**. Claimants may renew their motion thirty days after they file their amended claims, consistent with this Order.

DONE and ORDERED in Chambers in Fort Myers, Florida, this 5th day of March, 2020.



TOM BARBER
UNITED STATES DISTRICT JUDGE